



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA-HQ-OAR-2010-0133; FRL-9900-01-OAR]

RIN 2060-AR55

**Denial of Petitions for Reconsideration of Regulation of Fuels and Fuel Additives: 2013
Biomass-Based Diesel Renewable Fuel Volume Final Rule**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of denial of petitions for reconsideration.

SUMMARY: The Environmental Protection Agency (EPA, or Agency) is denying two petitions for reconsideration of the final rule entitled Regulation of Fuels and Fuel Additives: 2013 Biomass-Based Diesel Renewable Fuel Volume.

DATES: EPA's denials of the petitions for reconsideration were issued by letters dated August 6, 2013.

FOR FURTHER INFORMATION CONTACT: Paul Argyropoulos; Office of Transportation and Air Quality; Environmental Protection Agency; 1200 Pennsylvania Avenue, N.W., Washington, DC 20460; telephone number: (202) 564-1123; email address: argyropoulos.paul@epa.gov.

SUPPLEMENTARY INFORMATION:

Description of Action: Section 211 (o)(2)(B)(ii) of the Clean Air Act requires that EPA determine the applicable volume of biomass-based diesel to be used in setting annual percentage standards under the renewable fuel standard program for years after 2012. EPA issued a Notice

of Proposed Rulemaking (“NPRM”) on July 1, 2011 which proposed a number of actions¹, including proposing 1.28 billion gallons as the applicable volume of biomass-based diesel for 2013. After considering public comments on its proposal, EPA issued a final rule on September 27, 2012 establishing 1.28 billion gallons as the applicable volume of biomass based diesel for 2013.²

Petitioners, the American Fuel & Petrochemical Manufacturers (AFPM) and the American Petroleum Institute (API), submitted comments³ to EPA during the comment period on the July 1, 2011, proposed rule, and subsequently each individually submitted a petition for reconsideration of the final rule published on September 27, 2012 and which became effective on November 26, 2012.⁴ Both petitioners requested that EPA reconsider its final decision to set the applicable volume requirement of biomass-based diesel at 1.28 billion gallons instead of the minimum 1.0 billion gallons specified in the statute. Issues raised by AFPM included the impact of the 2012 drought on feedstock availability and cost, the impact of fraudulent RINs on EPA’s assessment of the growth potential of the biodiesel industry in 2013, and the adequacy of EPA’s assessment of impacts of the rule related to cost, energy security, job creation, greenhouse case emissions and other matters. API’s petition was more limited and focused on the issue of fraudulent RINs.

¹ 76 FR 38844.

² 77 FR 59458.

³ Letter dated August 11, 2011 to Administrator Lisa Jackson from Charles T. Drevna, President National Petrochemical & Refiners Association, “Subject: Docket EPA-HQ-OAR-2010-0133 – Comments on EPA’s proposal for 2012 RFS RVOs and biomass-based diesel volume for 2013”. Letter dated August 11, 2011 to Air and Radiation Docket from Patrick Kelly, Senior Policy Advisor American Petroleum Institute, “Re: Docket ID No. EPA-HQ-OAR-2010-0133 The U.S. Environmental Protection Agency’s Proposed Rule on Regulation of Fuel and Fuel Additives: 2012 Renewable Fuel Standards”.

⁴ Letter dated November 20, 2012 to Honorable Lisa Jackson from Richard Moskowitz, American Fuel & Petrochemical Manufacturers, “Re: Petition for Reconsideration – Docket No. EPA-HQ-OAR-2010-0133. Letter dated November 26, 2012 to Honorable Lisa Jackson from Robert L. Greco, III, American Petroleum Institute, “Re: Request for Reconsideration of EPA’s Final Rulemaking “2013 biomass-Based Diesel Renewable Fuel Volume”.

After carefully considering the petitions and all supporting information, the EPA Administrator denied the petitions for reconsideration on August 6, 2013 in separate letters to the petitioners. EPA denied the petitions because they each failed to meet the criteria for reconsideration in CAA section (307)(d)(7)(B); each of the objections raised in these petitions either were or could have been raised during the comment period on the proposed rule, or are not of central relevance to the outcome of the rule because they do not provide substantial support for the argument that the final rule establishing the applicable volume of biomass-based diesel for 2013 should be revised. The letters and an accompanying memorandum explain in detail the EPA's reasons for the denials.

How can I get copies of these documents and other related information?

This Federal Register notice, the petitions for reconsideration, and the letters denying the petitions along with the accompanying memorandum which explains EPA's reasons for denial are available in the docket that EPA established for the "Regulation of Fuels and Fuel Additives: 2013 Biomass-Based Diesel Renewable Fuel Volume" under Docket ID No. EPA-HQ-OAR-2010-0133. All documents in the docket are listed on the <http://www.regulations.gov> web site. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at EPA's Docket Center, Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, DC 20004. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

The letters denying the petitions for reconsideration and the accompanying memorandum explaining EPA's reasons for denial has been posted on the EPA Web site at:

<http://www.epa.gov/otaq/fuels/renewablefuels/notices.htm>

Dated: August 6, 2013.

Christopher Grundler,

Director, Office of Transportation and Air Quality.

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